

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judiciary Department

Notification

LD/2364/75-B

The following Ordinance which was recently promulgated by the President of India is hereby published for general information of public.

M. S. Borkar, Under Secretary (Law).

Panaji, 7th July, 1975.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th June, 1975/
Asadha 8, 1897 (Saka)

THE MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) ORDINANCE, 1975

No. 4 of 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance further to amend the Maintenance of Internal Security Act, 1971.

Whereas a grave emergency exists whereby the security of India is threatened by external aggression and internal disturbance;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement. — (1) This Ordinance may be called the Maintenance of Internal Security (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

2. Act 26 of 1971 to be temporarily amended. — During the period of operation of this Ordinance, the

Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4 and 5.

3. Amendment of section 14. — In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.”.

4. Amendment of section 15. — In section 15 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.”.

5. Insertion of new section 16A. — After section 16 of the principal Act, the following section shall be inserted, namely:—

“16A. Special provisions for dealing with emergency. — (1) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971, or the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, or a period of twelve months from the 25th day of June, 1975, whichever period is the shortest.

(2) The case of every person against whom an order of detention was made on or after the 25th day of June, 1975, but before the commencement of the Maintenance of Internal Security (Amendment) Ordinance, 1975, shall, unless such person is sooner released from detention, be reviewed within fifteen days from such commencement by the appropriate Government for the purpose of determining whether the detention of such person under this Act is necessary for dealing effectively with the emergency in respect of which the Proclamations referred to in sub-section (1) have been issued (hereafter in this section referred to

as the emergency) and if, on such review, the appropriate Government is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government may make a declaration to that effect and communicate a copy of the declaration to the person concerned.

(3) When making an order of detention under this Act against any person after the commencement of the Maintenance of Internal Security (Amendment) Ordinance, 1975, the Central Government or the State Government or, as the case may be, the officer making the order of detention shall consider whether the detention of such person under this Act is necessary for dealing effectively with the emergency and if, on such consideration, the Central Government or, as the case may be, the State Government or the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned:

Provided that where such declaration is made by an officer, it shall be reviewed by the State Government to which such officer is subordinate within fifteen days from the date of making of the declaration and such declaration shall cease to have effect unless it is confirmed by the State Government, after such review, within the said period of fifteen days.

(4) The question whether the detention of any person in respect of whom a declaration has been made under sub-section (2) or sub-section (3) continues to be necessary for effectively dealing with the emergency shall be reconsidered by the appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months, and if, on such reconsideration, it appears to the appropriate Government that the detention of the person is no longer necessary for effectively dealing with the emergency, that Government may revoke the declaration.

(5) In making any review, consideration or reconsideration under sub-section (2), (3) or (4), the appropriate Government or officer may, if such Government or officer considers it to be against the public interest to do otherwise, act on the basis of the information and materials in its or his possession without disclosing the facts or giving an opportunity of making a representation to the person concerned.

(6) It shall not be necessary —

(a) to disclose to any person detained under a detention order to which the provisions of sub-section (2) apply, the grounds on which the order has been made during the period within which his case may be reviewed under that sub-section and where, on such review, a declaration has been made in respect of such person under that sub-section also during the period when such declaration is in force:

(b) to disclose to any person detained under a detention order to which the provisions of sub-section (3) apply, the grounds on which the order has been made during the period the declaration made in respect of such person under that sub-section is in force,

and, accordingly, such periods shall not be taken into account for the purposes of section 8.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (2) or sub-section (3) apply, and in respect of whom a declaration has been made thereunder, the period during which such declaration is in force shall not be taken into account for the purpose of computing the periods mentioned in section 10 or section 11."

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Notification

LD/2364/75-A

The following Order which was recently issued by the President of India is hereby published for general information of public.

M. S. Borkar, Under Secretary (Law).

Panaji, 7th July, 1975.

GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

Order

New Delhi, the 27th June 1975

G.S.R. 361(E).—In exercise of the powers conferred by clause (1) of article 359 of the Constitution, the President hereby declares that the right of any person (including a foreigner) to move any court for the enforcement of the rights conferred by article 14, article 21 and article 22 of the Constitution and all proceedings pending in any court for the enforcement of the abovementioned rights shall remain suspended for the period during which the Proclamations of Emergency made under clause (1) of article 352 of the Constitution on the 3rd December, 1971 and on the 25th June, 1975 are both in force.

This Order shall extend to the whole of the territory of India except the State of Jammu and Kashmir.

This Order shall be in addition to and not in derogation of any Order made before the date of this Order under clause (1) of article 359 of the Constitution.

[No. II/16013/1/75-S&P(D)II]

S. L. KHURANA, Secy.

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